

(3) 25/1/ (5)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 59 OF 2007

Single Bench

APPEAL UNDER SECTION 173 OF MOTOR VEHICLES ACT, 1988

Appellant

Non-Applicant no. 3

United India Insurance
Company Limited, In front of
Anupama Talkies, Jagdalpur
Distt. Bastar, through
Divisional Office, Jail Road,
Raipur (Chhattisgarh)

Versus

Respondents

1

Jagdish @ Narayan, S/o
Ram Lal, aged 25 years, R/o
Panarapara, Jagdalpur, Distt.
Bastar (CG) (Driver)

Non-Applicant No. 1

2.

G. Satish, S/o Satyanarayan,
R/o Door No. 11/22,
Ramalayam, Main Road,
Vishakhapatnam, Andhra
Pradesh (Vehicle Owner)

Non-Applicant no. 2

3

Sheikh Jan Saida, S/o Sheikh
Jan Sahib, aged 25 years, R/o
Kewramunda Ward,
Vrindavan Colony, Jagdalpur,
Distt. Bastar

Claimant

**Claim in Appeal for setting aside the award,
valued at Rs. 51,817/- (Rupees Fifty One Thousand Eight Hundred
Seventeen only)**

P.R. No. 146/07
Presented by Shri. Sangay B. Jangam
dated 21/01/07

मामला क्रमांक M.A.(C.) No. 59/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	16-01-2007 : Shri Sanjay S. Agrawal, counsel for the appellant. • Heard on admission. The appellant/insurer is aggrieved by an award dated 13-11-2006 passed by the Motor Accident Claims Tribunal, Bastar at Jagdalpur in Claim Case No. 243/2005 whereby compensation of Rs. 51,817/- was awarded for 40% permanent disability suffered by the claimant in the pelvic bone as also in the right leg. Learned counsel for the appellant urged following two grounds:- (A) The insurer was not liable for payment of compensation since the cover note Ex. P/20 No. 242969 for the period of 14-11-2003 to 13-11-2004 was a fake document and was so proved by Balkeshwar Mahapatra N.A.W/1. (B) The compensation of Rs. 24,000/- was awarded by the learned M.A.C.T. for loss of earning for the period of 8 months was excessive. No other point was urged. Shri Sanjay S. Agrawal, learned counsel for the appellant submitted that permission under Section 170 of the Motor Vehicles Act was granted to the appellant/insurer by the learned M.A.C.T. and also admitted that the cover note No. 242969 Ex.P/20 was in fact issued by the authorized signatory of the insurance company after receiving premium. Learned counsel for the appellant, on being asked by this Court stated that the Insurance Company did not take any action against the officer concerned for issuance of a fake cover note. Learned counsel for the appellant during the course of arguments furnished certified copy of the statement of claimant, Dr. V.K.Jha, P.W./2	

मामला क्रमांक M.A.(C).No. 59/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	and Balkeshwar Mahapatra N.A/W./1 as also a copy of the cover note Ex.P/20 which are taken on record. Having heard learned counsel for the appellant, I have perused the documents. So far as the evidence of Balkeshwar Mahapatra relating to cover note No. 242969 for the period of 06-11-2002 to 05-11-2003 for a Hero Honda motorcycle is concerned, this evidence does not clinchingly show that the cover note No. 242969 Ex. P/20 is a fake document especially because Balkeshwar Mahapatra was not posted in Vishakhapatnam office at the relevant period. He also admitted that there were four branches of the Insurance Company in Vishakhapatnam. In any case, since it is not disputed that the authorized signatory of the Insurance Company after receiving the amount of premium issued cover note Ex. P/20 bearing No. 242969 and no action whatsoever was taken against the authorized signatory, the liability of the Insurance Company has been established. So far as the second ground is concerned, the evidence led by the claimant goes to show that the claimant had suffered 40% permanent disability in the pelvic bone as also in the right leg. This fact was also established by proving the X-Ray report Ex.P/17 and permanent disability certificate Ex.P/18 as also by examining Dr. V.K. Jha, P.W./2. The claimant has in his testimony clearly stated that due to the accident he was hospitalized from 28-02-2004 to 16-03-2004 and was out of work for a period of eight months thereafter. In this view of the matter, taking monthly income of the claimant as Rs.3000/- per month, an award of	

मामला क्रमांक ...M.A.(C).No. 591/सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	compensation of Rs.24000/- for the laid up period of eight months cannot be faulted with. In this view of the matter, both the grounds urged by the learned counsel for the appellant fail. The impugned order awarding compensation of Rs.51817/- is impeccable. In the result, this appeal is being devoid of merit is dismissed at the stage of admission. In view of above, M.(C) P. No. 83/2007 for grant of stay stands disposed of.	Sd/- Dilip Raosaheb Deshmukh Judge

P.T.O.

18/11/07